

OPEN MEETING ITEM



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COMMISSIONERS
KRISTIN K. MAYES – Chairman
GARY PIERCE
PAUL NEWMAN
SANDRA D. KENNEDY
BOB STUMP



ORIGINAL

Executive Director

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ARIZONA CORPORATION COMMISSION

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AZ CORP COMMISSION
DOCKET CONTROL

DATE: OCTOBER 29, 2010

DOCKET NO.: T-04152A-08-0243

TO ALL PARTIES:

Enclosed please find the recommendation of Administrative Law Judge Belinda A. Martin. The recommendation has been filed in the form of an Order on:

ADVANCED TELEMANAGEMENT, GROUP INC., DBA ATG
(CANCELLATION OF CC&N)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and thirteen (13) copies of the exceptions with the Commission's Docket Control at the address listed below by **4:00** p.m. on or before:

NOVEMBER 8, 2010

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Open Meeting to be held on:

NOVEMBER 22, 2010 and NOVEMBER 23, 2010

For more information, you may contact Docket Control at (602) 542-3477 or the Hearing Division at (602) 542-4250. For information about the Open Meeting, contact the Executive Director's Office at (602) 542-3931.

Arizona Corporation Commission

DOCKETED

OCT 29 2010

DOCKETED BY

ERNEST G. JOHNSON
EXECUTIVE DIRECTOR

1200 WEST WASHINGTON STREET, PHOENIX, ARIZONA 85007-2927 / 400 WEST CONGRESS STREET, TUCSON, ARIZONA 85701-1347

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This document is available in alternative formats by contacting Shaylin Bernal, ADA Coordinator, voice phone number 602-542-3931, E-mail SABernal@azcc.gov

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 COMMISSIONERS

3 KRISTIN K. MAYES, Chairman
4 GARY PIERCE
5 PAUL NEWMAN
6 SANDRA D. KENNEDY
7 BOB STUMP

8 IN THE MATTER OF THE APPLICATION
9 OF ADVANCED TELEMAGEMENT GROUP,
10 INC. DBA ATG, FOR APPROVAL OF
11 CANCELLATION OF ITS CERTIFICATE OF
12 CONVENIENCE AND NECESSITY FOR RESOLD
13 INTEREXCHANGE TELECOMMUNICATIONS
14 SERVICES.

DOCKET NO. T-04152A-08-0243

DECISION NO. _____

ORDER

15 Open Meeting
16 November 22 and 23, 2010
17 Phoenix, Arizona

18 **BY THE COMMISSION:**

19 Having considered the entire record herein and being fully advised in the premises, the
20 Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

21 FINDINGS OF FACT

22 1. Advanced Telemanagement Group, Inc., d/b/a ATG ("ATG" or "Company") has a
23 Certificate of Convenience and Necessity ("Certificate") to provide resold interexchange
24 telecommunications services in Arizona pursuant to Decision No. 66236 (September 16, 2003).

25 2. In that Decision, the Commission directed ATG to obtain a \$10,000 performance
26 bond. Subsequently, the Commission eliminated the performance bond requirement in Decision No.
27 66887 (April 6, 2004), and directed the Company not to collect advance payments, deposits or
28 prepayments from its customers.

3. On May 12, 2008, the Company filed with the Commission an application for
cancellation of its Certificate ("Application"). ATG stated that it no longer intends to provide service
in Arizona and currently has no customers in Arizona or any other state.

4. On June 26, 2008, July 18, 2008, and July 21, 2008, the Commission's Utilities
Division Staff ("Staff") sent Data Requests to ATG.

1 5. On September 3, 2010, Staff filed its Staff Report recommending approval of ATG's
2 Application.

3 6. On May 25, 2010, Staff spoke with ATG's Chief Financial Advisor, Brian McGuire.
4 According to Mr. Maguire, ATG ceased service to its last Arizona customer on September 2007,
5 approximately seven months prior to filing the Application. Prior to ceasing provision of service to
6 its customers, ATG contacted each of them by telephone and advised the customers that it would no
7 longer be providing service in Arizona, and aided its customers in selecting and transferring the
8 customers to alternative carriers.

9 7. Staff verified with the Company that it did not collect advances, deposits and/or
10 prepayments from its former customers.

11 8. The Commission's Consumer Services Section of the Commission's Utilities Division
12 reported that there were no customer complaints, inquiries or opinions against the Company from
13 January 1, 2005 through May 26, 2010, and Staff noted that the Commission's Corporations Division
14 had administratively dissolved ATG's corporate status on December 30, 2009, for failure to file its
15 annual report.

16 9. The Company did not comply with those terms of Arizona Administrative Code
17 ("A.A.C.") R-14-2-1107, requiring the Company to provide a plan for the refund of deposits and to
18 publish notice of the application. Staff states, "[s]ince ATG informed their customer that it was
19 going out of business and addressed its customers' service needs, Staff believes ATG should receive
20 a waiver to the [remainder of the] requirements of A.A.C. R-14-2-1107."¹

21 10. As discussed in Decision No. 67404 (November 2, 2004), it would render A.A.C.
22 R14-2-1107 meaningless and would run afoul of the rule's intent and plain language to exempt a
23 company from the requirements of the rule because it has no customers due to its discontinuation of
24 service. However, as discussed in that Decision, the intent of the rule is to ensure that existing
25 customers have advance notice of a telecommunications provider's pending plan to discontinue
26 service such that they will be afforded an opportunity to procure service through an alternative
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28 ¹ Staff Report dated July 21, 2010, page 2.

1 provider prior to such discontinuance.

2 11. The Company has no Arizona customers and did not collect any advances, deposits
3 and/or prepayments. Under these circumstances, the requirements of A.A.C. R-14-2-1107 should be
4 waived.

5 12. Staff recommends approval of ATG's Application and cancellation of the Company's
6 Certificate.

7 13. Additionally, Staff notes that on February 3, 2005, the Company filed a request in
8 Docket No. T-04152-05-0071 to increase the payphone use surcharge in its Arizona CC Tariff No. 1.
9 Staff asserts that Docket No. T-04152-05-0071 should be administratively closed and ATG's Arizona
10 CC Tariff No. 1 related to the provision of resold interexchange telecommunications services should
11 be cancelled.

12 14. Staff's recommendations are reasonable and should be adopted.

13 **CONCLUSIONS OF LAW**

14 1. The Company is a public service corporation within the meaning of Article XV of the
15 Arizona Constitution and A.R.S. §§ 40-281 and 40-282.

16 2. The Commission has jurisdiction over the Company and the subject matter of the
17 Application.

18 3. The cancellation of the Company's Certificate is in the public interest.

19 4. Pursuant to A.R.S. § 40-282, the Commission may issue decisions regarding
20 Certificates of Convenience and Necessity for certain telecommunication services without a hearing.

21 5. The requirements of A.A.C. R14-2-1107 should be waived in this case.

22 6. Staff's recommendations are reasonable and should be adopted.

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ORDER

IT IS THEREFORE ORDERED that the Application of Advanced Telemanagement Group, Inc., d/b/a ATG for the cancellation of its Certificate of Convenience and Necessity to provide resold interexchange telecommunications services in Arizona is approved, and its Certificate of Convenience and Necessity and its Arizona CC Tariff No. 1 are cancelled.

IT IS FURTHER ORDERED that Docket No. T-04152A-08-0243 is hereby closed.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN

COMMISSIONER

COMMISSIONER

COMMISSIONER

COMMISSIONER

IN WITNESS WHEREOF, I, ERNEST G. JOHNSON, Executive Director of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this _____ day of _____, 2010.

ERNEST G. JOHNSON
EXECUTIVE DIRECTOR

DISSENT _____

DISSENT _____

1 SERVICE LIST FOR: ADVANCED TELEMAGEMENT, GROUP INC.,
2 DBA ATG

3 DOCKET NO.: T-04152A-08-0243

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